



City of Commerce

Linda Kay Olivieri,
MMC
City Clerk

August 21, 2008

Ms. Sachi A. Hamai, Executive Officer
Los Angeles County Board of Supervisors
Room 383 Kenneth Hahn Hall of Administration
500 W. Temple Street
Los Angeles, California 90012

Dear Ms. Hamai:

Enclosed please find two certified copies of Resolution No. 08-33, approved and adopted by the City Council of the City of Commerce, California, on August 19, 2008, repealing Resolution No. 08-27 and requesting the Board of Supervisors of the County of Los Angeles to render specified services to the City of Commerce relating to the conduct of a Special Municipal Election to be held in the City on Tuesday, November 4, 2008, and to be consolidated with the Statewide General Election to be held on the same date, pursuant to the requirements of the Los Angeles Superior Court's Order dated August 12, 2008, as outlined in the Resolution.

Thank you for your consideration of this matter and if I may be of any assistance to you, please feel free to give me a call.

Sincerely,

Linda Kay Olivieri, MMC
City Clerk

Enc. (2)

cc: Mr. Francis Guijaro (letter only)
Election Preparation Division
Election Planning Section
Los Angeles County RR/CC

Mr. Alex Olvera (letter only)
Election Preparation Division
Los Angeles County RR/CC

Mr. Scott Martin, Martin & Chapman Co. (letter only)

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"Where Quality Service Is Our Tradition"

RESOLUTION NO. 08-33

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COMMERCE, CALIFORNIA, (1) REPEALING CITY COUNCIL RESOLUTION NO. 08-27; AND (2) REQUESTING THE BOARD OF SUPERVISORS OF THE COUNTY OF LOS ANGELES TO RENDER SPECIFIED SERVICES TO THE CITY RELATING TO THE CONDUCT OF THE SPECIAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 4, 2008, AND TO BE CONSOLIDATED WITH THE STATEWIDE GENERAL ELECTION TO BE HELD ON THE SAME DATE

WHEREAS, the City Council of the City of Commerce, California, called a Special Municipal Election to be held on Tuesday, November 4, 2008, for the purpose of submitting to the voters the questions relating to the recall of certain officers and the election of candidates to fill the vacancy or vacancies if the recall prevails; and

WHEREAS, on July 7, 2008, the City Clerk made a request to Mr. Alex Olvera, Assistant Division Manager, Election Preparation Division of the Los Angeles County Registrar-Recorder/County Clerk's Office [hereafter, "County"], regarding the consolidation of the City's Special Municipal Election [hereafter, "Election"] with the Statewide General Election on November 4, 2008; and

WHEREAS, Mr. Olvera informed the City Clerk that consolidation may not be possible due to the City's nomination period not coinciding with the County's nomination period. Pursuant to the provisions of Elections Code §11381(b), the City's nomination period would close on the 75th day prior to the Election, August 21, 2008, while the County's would close on the 88th day prior to the election, August 8, 2008; and

WHEREAS, on July 8, 2008, the County returned the Recall Petitions to the City Clerk's Office with the appropriate letter executed by Mr. Dean C. Logan, Acting Registrar-Recorder/County Clerk, outlining the results of the signature verifications; and

WHEREAS, on July 8, 2008, the City Clerk completed the withdrawal of the signatures from the Recall Petitions of those individuals who had properly requested that their names be withdrawn there from by written request. Following the City Clerk's review on July 8, 2008, and by written Certificate of Sufficiency dated July 9, 2008, the City Clerk determined that each Petition was sufficient and the recalls qualified for the ballot; and

WHEREAS, on July 9, 2008, Ms. Darlene M. Bonds, Assistant Registrar-Recorder/County Clerk, Election Preparation Bureau of County, confirmed for the City Clerk that in order to consolidate, the City would be required to shorten its nomination period from the 75th to the 88th day prior to the Election; and

WHEREAS, Elections Code §11381(b) provides, in part, that:

"Nominations of candidates to succeed the recalled officer **shall be made** in the manner prescribed for nominating a candidate to that office in a regular election insofar as that procedure is consistent with this article. The following exceptions shall be made to that procedure:

(b) For recalls of local officers, the nomination papers and the declaration of candidacy **shall**, in each case, be filed not less than 75 days prior to the date of the election and not before the day the order of the election is issued. If the elections official is required to certify to the governing board the names of the candidates to be placed on the ballot, that shall be done by the 71st day prior to the election." [Emph. added]

WHEREAS, the City Clerk interpreted the County's advisements in response to her requests for consolidation to mean that the County would reject consolidation unless the City took action to shorten the Election nomination period, contrary to the mandate in §11381(b); and

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WHEREAS, the City Clerk, the City's Election Consultant, the City Attorney and the City Council interpret §11381(b) to mandate that the nomination period for a recall election be open until the 75th day prior to the Election and does not provide the City with any discretion to unilaterally shorten the nomination period; and

WHEREAS, on July 15, 2008, during its Concurrent Regular Meeting, the City Council, following receipt and filing of the City Clerk's Certificates of Sufficiency relating to the Petitions, and after being advised of the County's response to the City Clerk's request for consolidation, ordered that a Special Municipal Election be held on November 4, 2008, and adopted Resolution No. 08-27, requesting County services in support of the conducting of said Election; and

WHEREAS, on or about August 5, 2008, Steven Shawn Bagne and others filed a Petition for Writ of Mandate in the Los Angeles Superior Court, Case No. BS 116198, in which Mr. Bagne and the petitioners stated that they were the recall proponents and that the County and the City were required to consolidate the Election; and

WHEREAS, on August 12, 2008, Judge Chalfant of the Los Angeles Superior Court concluded that because the County had agreed to accept the nomination dates for the Election established by Election Code §11381(b), the issue of the applicable nomination period was moot and the Election could be consolidated; and

WHEREAS, the consolidation of the Election now makes it necessary for the City to request different services from the County of Los Angeles than those requested in City Council Resolution No. 08-27.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF COMMERCE, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

SECTION 1. That pursuant to the requirements of the Los Angeles Superior Court's Order dated August 12, 2008, the Board of Supervisors of the County of Los Angeles will consolidate a Special Municipal Election with the Statewide General Election on Tuesday, November 4, 2008, for the purpose of submitting to the voters the questions relating to the recall of certain officers and the election of candidates to fill the vacancy or vacancies if the recall prevails;

SECTION 2. That the County Election Department is authorized to canvass the returns of the Special Municipal Election. The election shall be held in all respects as if there were only one election, and only one form of ballot shall be used.

SECTION 3. That the Board of Supervisors is requested to issue instructions to the County Election Department to take any and all steps necessary for the holding of the consolidated election.

SECTION 4. That the City of Commerce recognizes that additional costs will be incurred by the County by reason of this consolidation and agrees to reimburse the County for any costs.

SECTION 5. That the City Clerk is hereby directed to file a certified copy of this Resolution with the Board of Supervisors and the County Election Department of the County of Los Angeles.


SECTION 6. That City Council Resolution No. 08-27, Requesting the Board of Supervisors of the County of Los Angeles to Render Specified Services to the City Relating to the Conduct of a Special Election to be Held on Tuesday, November 4, 2008, is hereby repealed.

SECTION 7. That the City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.

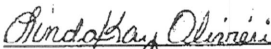
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PASSED, APPROVED AND ADOPTED this 19th day of August,
2008.

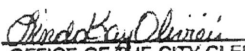

Tina Baca Del Rio, Mayor

ATTEST:


Linda Kay Olivieri, MMC
City Clerk

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THIS IS A CERTIFIED TRUE COPY OF
City of Commerce, California,
Resolution No. 08-33
THE ORIGINAL OF WHICH IS ON FILE
IN THE CITY CLERKS OFFICE.


OFFICE OF THE CITY CLERK
CITY CLERK 8/21/08